

# **EXHIBIT 40**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, THE  
EMPLOYEES RETIREMENT SYSTEM OF THE  
GOVERNMENT OF THE COMMONWEALTH OF  
PUERTO RICO, AND THE PUERTO RICO PUBLIC  
BUILDINGS AUTHORITY,

Debtors.<sup>1</sup>

PROMESA  
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

RECEIVED

SEP 22 2021

PRIME CLERK LLC

**NOTICE OF ENTRY OF ORDER ESTABLISHING PRELIMINARY  
CONFIRMATION SUBMISSION AND DISCOVERY PROCEDURES,  
AND DIRECTING NOTICE TO CREDITORS OF THE SAME**

**THE COURT HAS DETERMINED THAT DISCOVERY IN CONNECTION WITH THE CONFIRMATION HEARINGS ON THE DEBTORS' PROPOSED PLAN OF ADJUSTMENT SHOULD BEGIN PROMPTLY, BEFORE COMPLETION OF THE HEARING ON THE DEBTORS' MOTION FOR APPROVAL OF THE PROPOSED DISCLOSURE STATEMENT REGARDING THE PROPOSED PLAN OF ADJUSTMENT. THE DATES AND DEADLINES SET FORTH HEREIN MAY BE ADJUSTED IF THE DISCLOSURE STATEMENT IS APPROVED AFTER JULY 30, 2021, AND ARE SUBJECT TO FURTHER REVISIONS BY COURT ORDER. THIS IS NOT A SOLICITATION OF VOTES ON THE PROPOSED PLAN. YOU SHOULD REVIEW THIS NOTICE.**

<sup>1</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17- BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

If you have any questions regarding this notice, please contact Prime Clerk LLC by telephone at (844) 822-9231 (toll free for U.S. and Puerto Rico) or (646) 486-7944 (for international callers), available 10:00 a.m. to 7:00 p.m. (Atlantic Standard Time) (Spanish available), or by email at [puertoricoinfo@primeclerk.com](mailto:puertoricoinfo@primeclerk.com).

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

1. The Financial Oversight and Management Board has filed, on behalf of the Debtors, the *Fifth Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al.*, dated July 12, 2021 [ECF No. 17306] (as the same may be amended or modified, including all exhibits and supplements thereto, the “Plan”).
2. ***Status of Disclosure Statement Approval.*** The Court is presently considering objections to the *Disclosure Statement for the Fifth Amended Title III Joint Plan of Adjustment of the Commonwealth of Puerto Rico, et al.* (Docket Entry No. 17308 in Case No. 17-3283, and as the same may be amended or modified, the “Disclosure Statement”) filed by the Debtors, that describes the Plan proposed for confirmation. A further hearing to consider the sufficiency of the Disclosure Statement is scheduled for July 27, 2021. The Debtors have proposed that final hearings on confirmation of the Plan take place in November 2021. To facilitate the possibility of consideration of confirmation of the Plan in 2021, the Court has determined that discovery regarding confirmation issues must commence promptly and that it is appropriate to establish the preliminary procedures for confirmation submissions and discovery that are set forth in this Notice. The Court has entered an *Order Establishing Preliminary Confirmation Submission and Discovery Procedures, and Directing Notice to Creditors of the Same*, which requires the Debtors to distribute this Notice. The Court’s Order is filed at Docket Entry No. 17431 in Case No. 17-3283. The Order establishes the following schedule for discovery and confirmation-related submissions.

3. ***Deadline to File Notice of Intent to Participate in Discovery.*** If you wish to participate in discovery in connection with confirmation of the Plan, you must file a notice of your intention to participate in discovery (a “Discovery Notice”), and in the manner set forth in Attachment 1. If you file your Discovery Notice on or before August 15, 2021, you may be granted access to documents in the Plan Depository, where information and documents concerning the Plan are kept, see Paragraph 8 below, and will also be able to serve your own discovery requests. If you file your Discovery Notice after August 15, 2021, but on or before October 19, 2021, you may be granted access to documents in the Plan Depository. Please note that access to the information in the Plan Depository may also require complying with the Debtors’ access requirements.

4. You must submit the Discovery Notice in the form set forth in Attachment 1, which must:

- a. Be in writing, in English, and be signed;
- b. State your name, address, the nature of your Claim, and your Claim number;
- c. State your intention to participate in discovery in connection with confirmation of the Plan; and
- d. Be filed electronically with the Court on the docket using the CM/ECF docket event Notice of Intent to Participate in Discovery for Commonwealth Plan Confirmation, in *In re Commonwealth of Puerto Rico*, Case No. 17 BK 3283-LTS, through the Court’s case filing system on or before the applicable deadline.

i. If you are not represented by counsel, you may instead mail your

Discovery Notice to the Court’s Clerk’s office at:  
United States District Court, Clerk’s Office  
150 Ave. Carlos Chardon Ste. 150  
San Juan, P.R. 00918-1767

so as to be received on or before the applicable deadline.

5. **You must timely file a Discovery Notice to participate in discovery in connection with confirmation of the Plan.** Failure to timely file a Discovery Notice, however, will not preclude you from filing an objection to confirmation of the Plan on or before the confirmation Objection Deadline (as defined below), but will preclude you from being able to view documents in the Plan Depository, and from taking discovery.

6. ***Discovery Timetable and Deadlines.*** The Court has established the following discovery dates and deadlines, which are applicable to the Debtors and to other parties in interest who have timely filed a Discovery Notice and are eligible to participate in discovery:<sup>2</sup>

Summary of Certain Deadlines	
<b>August 3, 2021</b>	Deadline for Debtors to file Preliminary Fact Witness List
	Deadline for Debtors to file Opening Summary Brief
<b>August 6, 2021</b>	Opening date to serve Requests for Production of Documents (All Parties)
<b>August 15, 2021</b>	Deadline for Creditors to file Notice of Intent to Participate in Discovery in order to be eligible to access the Plan Depository and serve discovery requests
<b>September 6, 2021</b>	Deadline for Creditors to file Preliminary Fact Witness List
	Deadline to file Opening Expert Disclosures (All Parties)
<b>September 13, 2021</b>	Deadline to file Opening Expert Reports (All Parties)
<b>October 1, 2021</b>	Deadline to file Interrogatories (All Parties)
	Deadline to file Follow-Up Production Requests (All Parties)
<b>October 4, 2021</b>	Deadline to file Rebuttal Expert Disclosures (All Parties)
<b>October 8, 2021</b>	Deadline to file Rebuttal Expert Reports (All Parties)
	Deadline for Debtors to file Initial Proposed Confirmation Order
<b>October 11, 2021</b>	Deadline to file Admission Requests (All Parties)
	Close of Fact Discovery

<sup>2</sup> All of the dates and procedures set forth in this notice are subject to change by further Court order.

Summary of Certain Deadlines	
<b>October 18, 2021</b>	Close of Expert Discovery
<b>October 19, 2021</b>	Deadline for Creditors to file Objections to Confirmation of the Plan
	Deadline for Creditors to file Notice of Intent to Participate in Discovery in order to access the Plan Depository
<b>October 22, 2021</b>	Deadline for Creditors to file Objections to Debtors' Initial Proposed Confirmation Order
	Deadline to file Finalized Witness Lists, Exhibit Lists and Deposition Designations (All Parties)
<b>October 25, 2021</b>	Deadline for Debtors to file Replies to Objections to Confirmation of the Plan
	Deadline to file Witness Declarations to be used at the Confirmation Hearing (All Parties)
	Deadline for Debtors to file Initial Proposed Findings of Fact and Conclusions of Law in Support of Confirmation of the Plan
<b>October 27, 2021</b>	Deadline for Debtors to file Replies in Support of Proposed Confirmation Order
<b>November 8, 2021</b>	Start of Confirmation Hearing

7. The dates and deadlines set forth herein may be adjusted if the Disclosure Statement is approved after July 30, 2021, and under such other circumstances as may be determined by the Court. You will receive notices with additional information regarding further proceedings in connection with confirmation of the Plan after the Court makes its determination regarding the Disclosure Statement.

8. ***Plan Confirmation Depository.*** Information and documents relating to confirmation of the Plan are available online in the Plan Confirmation Depository at [titleiiiplandataroom.com](http://titleiiiplandataroom.com).

9. ***Additional Information.*** Any party in interest wishing to obtain copies of the Plan, including Spanish translations thereof, should contact Prime Clerk LLC, by telephone at (844)

822-9231 (toll free for U.S. and Puerto Rico) or (646) 486-7944 (for international callers), available 10:00 a.m. to 7:00 p.m. (Atlantic Standard Time) (Spanish available), or by email at puertoricoinfo@primeclerk.com, or may view such documents by accessing either <https://cases.primeclerk.com/puertorico/> or the Court's website, <https://www.prd.uscourts.gov/>. Please note that a Public Access to Court Electronic Records ("PACER") (<http://www.pacer.psc.uscourts.gov>) password and login are needed to access documents on the Court's website.

Dated: July 20, 2021  
San Juan, Puerto Rico

Respectfully submitted,

/s/ Martin J. Bienenstock

Martin J. Bienenstock (*pro hac vice*)

Brian S. Rosen (*pro hac vice*)

Margaret A. Dale (*pro hac vice*)

Julia D. Alonso (*pro hac vice*)

Laura Stafford (*pro hac vice*)

**PROSKAUER ROSE LLP**

Eleven Times Square

New York, NY 10036

*Attorneys for the Financial Oversight and  
Management Board as representative for the  
Debtors*

/s/ Hermann D. Bauer

Hermann D. Bauer

USDC No. 215205

**O'NEILL & BORGES LLC**

250 Muñoz Rivera Ave., Suite 800

San Juan, PR 00918-1813

*Co-Attorneys for the Financial Oversight and  
Management Board as representative for the  
Debtors*

# **ATTACHMENT 1**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND  
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO  
et al.,

PROMESA  
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

Debtors.<sup>3</sup>

**NOTICE OF INTENT TO PARTICIPATE IN DISCOVERY FOR  
CONFIRMATION OF COMMONWEALTH PLAN OF ADJUSTMENT**

If this Notice is filed on or before August 15, 2021, you may be granted access to documents in the Plan Depository, where information and documents concerning the Plan are kept, and you will also be able to serve your own discovery requests. If you file this Notice after August 15, 2021, but on or before October 19, 2021, you may be granted access to documents in the Plan Depository, but you will not be able to serve your own discovery requests. Please note that access to the information in the Plan Depository may also require complying with the Debtors' access requirements. If this Notice is filed after October 19, 2021, you will not be permitted to participate in discovery. If you do not file this Notice, you will still be able to vote on the Plan, if you are otherwise qualified to vote.

The party identified below (the "Participant") hereby advises the Debtors that it intends to participate in discovery in connection with confirmation of the Debtors' proposed Plan.

<sup>3</sup> The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

Participant must provide all of the information below **in English**:

1. Participant's contact information, including email address, and that of its counsel, if any:

Participant's Name: \_\_\_\_\_

Participant's Address: \_\_\_\_\_

Participant's Email Address: \_\_\_\_\_

Name of Counsel: \_\_\_\_\_

Address of Counsel: \_\_\_\_\_

Email Address of Counsel: \_\_\_\_\_

2. Participant's Claim number and the nature of Participant's Claim:

Claim Number: \_\_\_\_\_

Nature of Claim: \_\_\_\_\_

By: \_\_\_\_\_  
Signature

Print Name \_\_\_\_\_

Title (if Participant is not an individual) \_\_\_\_\_

Date \_\_\_\_\_

*NOTE: I'm Gabriel Pitre  
NEVER work FOR government OF  
PR. I have 27 year Old.  
I don't have any pension.  
FOR government OF PR.  
Never work for P.R. Public  
Buildings Authority. Gabriel Pitre*

**Instructions for Filing Notice of Participation:** If you are represented by counsel, this Notice must be filed electronically with the Court on the docket using the CM/ECF docket event Notice of Intent to Participate in Discovery for Commonwealth Plan Confirmation, in *In re Commonwealth of Puerto Rico*, Case No. 17 BK 3283-LTS, through the Court's case filing system on or before the applicable deadline. If you are not represented by counsel, you may instead mail this Notice to the Court's Clerk's Office at: United States District Court, Clerk's Office, 150 Ave. Carlos Chardon Ste. 150, San Juan, P.R. 00918-1767.

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PITRE, GABRIEL  
HC 7 BOX 33178  
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HC 07 Box 33178  
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